

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LANIER THOMPSON,

Plaintiff,

Case No. 1:13-CV-499

v.

HON. GORDON J. QUIST

MICHAEL MORAN, et al.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff, Lanier Thompson, filed a complaint against Defendants Charles Gawne, Sarah Timmer, Michael Moran, and Stephen Jozlin. Magistrate Judge Hugh Brenneman issued a Report and Recommendation (R & R), recommending that the Court grant summary judgment motions filed by Defendants Gawne, Moran, and Jozlin, and dismiss those defendants from this action. Plaintiff filed objections to that R & R. Having conducting a de novo review of those portions of the R & R to which Plaintiff has objected, *see* 28 U.S.C. § 636(b)(1), the Court will overrule Plaintiff's objections and adopt the R & R.

Plaintiff's primary objection is that Defendants Gawne and Moran are not entitled to Eleventh Amendment immunity because Plaintiff sued each of them in their personal capacity. The magistrate judge concluded as much, and addressed the claims against Defendants Gawne and Moran on the merits. Accordingly, this objection is without foundation.

To the extent that Plaintiff objects to the magistrate judge's recommendation on the merits of his claims against Defendants Gawne and Moran, the objection fails. Because Defendants Gawne and Moran lacked the ability or authority to prescribe medication, any claims against them based

on the decision to remove Plaintiff from his medications fail. *See Walker v. Eye*, 417 F. App'x 461, 464 (6th Cir. 2011) (dismissing deliberate indifference claim based on the failure to prescribe medication because the defendant lacked authority to issue prescriptions); *Shehee v. Luttrell*, 199 F.3d 295, 300-01 (6th Cir. 1999) (dismissing the plaintiff's retaliation claim because the defendants lacked authority to take the actions that were cited as retaliatory).

Therefore,

IT IS HEREBY ORDERED that the magistrate judge's Report and Recommendation issued September 4, 2014 (dkt. # 44) is **ADOPTED** as the Opinion of the Court and Plaintiff's Objections (dkt. # 47) are **OVERRULED**.

IT IS FURTHER ORDERED that Defendant Jozlin's Motion For Summary Judgment (dkt. # 15) is **GRANTED**, and Plaintiff's claims against Defendant Jozlin are **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that the Motion for Summary Judgment filed by Defendants Moran and Gawne (dkt. # 24) is **GRANTED**, and Plaintiff's claims against Defendants Moran and Gawne are **DISMISSED WITH PREJUDICE**.

Dated: September 24, 2014

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE